

**TELECONFERENCE
EXAMINING BOARD OF PROFESSIONAL GEOLOGISTS
HYDROLOGISTS AND SOIL SCIENTISTS
MINUTES
WEDNESDAY, DECEMBER 12, 2001**

PRESENT: Fred Birts, Thomas Evans, David Mickelson, Stephen Donohue, Herbert Garn, Robert Karnauskas, and Tracy Benzel

EXCUSED: Joan Underwood, Roger Hall, Wayne Lindgren, Patrick McGuire, Jerry Tyler

STAFF: Katharine Hildebrand, Bill Black, and Grace Schwingel

CALL TO ORDER

Robert Karnauskas called the meeting to order at 9:25 a.m. A quorum of seven board members was present.

AGENDA

MOTION: Tracy Benzel moved, seconded by Tom Evans, to approve the agenda as published. Motion carried unanimously.

DISCUSSION OF SB 156

Update on Status of Bill (Katharine Hildebrand)

Hildebrand reported that SB 156 is now in the Committee on Environmental Resources in the Senate. Senator Baumgart, who chairs this Committee, did not hold an executive session on SB 156 in his committee. The Committee adopted a substitute amendment for SB 156. AB 358 has passed the Assembly on a voice vote and went to the Senate Committee on University Housing and Government Operations, chaired by Senator Meyer. At this point, the Board would like to meet with individual legislators.

Identify Relevant Legislators to Be Polled Regarding Their Position on Bill

Tabled until next week's telephone conference on Wednesday, December 19, 2001.

Select Legislators to Meet

Tabled until next week's telephone conference on Wednesday, December 19, 2001.

Adopt Board Positions on Issues Regarding SB 156 to be Presented at Meetings

The Board has serious concerns regarding the e-mail communication from Representative Duff which stated that the Board misrepresented information. Benzel responded to Representative Duff's e-mail asking for an itemized list of the supposed inaccuracies. Benzel has not received a response as of this date. The Board would like a representative of the Board to talk with

Representative Duff to correct his misunderstanding of how the Board conducts its business. Legal Counsel, Bill Black, did not see any legal inaccuracies in the letter the Department sent to Representative Duff.

The proposed legislation from Representative Duff was to allow incidental practice and the intent is that the other professionals cannot self-designate their own profession. All parties agree that incidental practice should be allowed but there is not a well-defined definition of what would be included under the term incidental practice.

The Board discussed and is sensitive to the issue of incidental practice as it relates to SB 156. There is some apprehension among people who are not licensed geologists, hydrologists and soil scientists who are concerned that they might be in violation of this statute and possibly subject to prosecution.

Legal Counsel, Bill Black, advised the Board that because of the way the legislation is written, prosecution of a complaint would be difficult. The other professions are not defined or regulated, and neither the Department nor the Board has the authority to tell an unregulated profession that he or she is not qualified and does not have the correct education. The current bills will have the effect of something very similar to a title protection act. The Board is in the process of talking to DATCAP, COMM and DNR about their requirements for their professional employees.

Instead of taking a legislative approach to deal with the issue of incidental practice, the question was raised as to why the Board doesn't have the option to propose a solution through the administrative code similar to what was done regarding the issue of the wetlands delineation. Legal Counsel, Bill Black, indicated the Board does not have the statutory authority to do this. The Board's response in the matter of wetland delineation was done in response to a request from Senators. The Board would like to be able to define not only what is in the scope of practice, but also to list the types of practice that are not within the purview of the practice of geology, hydrology and soil scientists. A change in the statutes would be required for the Board to have the authority to define specific practices that do not fall within the practice of the professions represented by this Board.

The Board agreed on the following:

GHSS ISSUES FOR LEGISLATIVE DISCUSSION

SB 156

AB 358

1. The original language contained in Section 3 of AB 358 should be retained allowing the board to promulgate rules that exempt professional activities involving the incidental practice of geology, hydrology or soil science.

a. The GHSS board has worked in the past to talk to affected professionals in the wetland science profession and construct an acceptable exception based upon incidental practice.

2. Government employee exception in SB 156 and AB 358.

a. The board maintains its original position that any practice outside of incidental practice should require GHSS licensure.

1. Licensure will insure proper qualifications.
2. State employees are often in a policy-making role; thus licensure will insure basic minimal education in the subject area related to policy making.
3. The GHSS board currently is participating in an interagency liaison with DNR, Commerce and DATCP to standardize and clarify the affected agencies use of licensed professionals.

b. Other states

Illinois – 225 ILCS 745- Sec. 20

(b) The practice of professional geology by officers and employees of the United States government within the scope of their employment.

(e) The practice of professional geology exclusively in the exploration for or development of energy resources or base, precious and nonprecious minerals, including sand, gravel, and aggregate, that does not require, by law, rule, or ordinance, the submission of reports, documents, or oral or written testimony to public agencies. Public agencies may, by law or by rule, allow required oral or written testimony, reports, permit applications, or other documents based on the science of geology to be submitted to them by persons not licensed under this Act. Unless otherwise required by State or federal law, public agencies may not require that the geology-based aspects of testimony, reports, permits, or other documents so exempted be reviewed by, approved, or otherwise certified by any person who is not a licensed professional geologist. Licensure is not required for the submission and review of reports or documents or the provision of oral or written testimony made under the Well Abandonment Act, the Illinois Oil and Gas Act, the Surface Coal Mining Land Conservation and Reclamation Act, or the Surface-Mined Land Conservation and Reclamation Act.

Minnesota- (Geoscience) Section 326.13

(3)- Federal exemption,

(4) – appears a state employee exemption for employee of an “agency”, limited to exploration and development, extraction etc. of mineral deposits.

Michigan- no statute

Iowa- 567 IAC 134.1(455G) (1998) -only regulates groundwater professionals. No exemption for state employees apparent.

Indiana- IC 25-17.6-7-1 (YES- state employee exemption)

Sec. 1. The following persons are exempt from the requirements of licensure under this article:

(1) An officer or employee of the United States government, state government, or local government while engaged in providing geological services for the officer's or employee's employers.

3. Incidental practice

- a. Should be allowed
- b. Currently determined on a case by case basis.
 - 1. The board is not seeking out instances of unlicensed practice.
 - 2. No prosecutions have been undertaken by the Department of Regulation and Licensing for unlicensed practice.
- c. Wetland science is currently exempt
 - 1. When asked by the legislature to deal with a specific profession, the board has done so by creating an exemption.
 - 2. The board is willing to work with other professions as directed by the legislature through legislation.
 - 3. Creating the parameters of specific exemptions for specific professions best serves the interests of those affected professions by establishing clear guidelines.
 - 4. An undefined statutory reference to “incidental” practice, as currently proposed does not provide specific guidance related to specific activities.

Designate Two Board Members to Meet With Selected Legislators

MOTION: Tom Evans moved, seconded by Stephen Donohue, to designate a member from each of the Sections to represent the Board in contacting legislators and to work with Legal Counsel in drafting the Board's position; the Board designated Joan Underwood, Bob Karnauskas and Jerry Tyler along with Tom Evans to meet with selected legislators. Motion carried unanimously.

MOTION: Stephen Donohue moved, seconded by Tom Evans, to have a teleconference meeting on Wednesday, December 19, 2001, at 9:00 a.m. to review the proposed talking points and legislative recommendations and to select Senators for the designated Board members to meet with to discuss the Boards concerns. Motion carried unanimously.

Hildebrand referred to SB 420, which had broad bi-partisan support and suggested that the Board members could also meet with Senator Shibilski, the sponsor of SB 420.

ADJOURNMENT

MOTION: Stephen Donohue moved, seconded by Tracy Benzel, to adjourn the meeting at 10:20 a.m. Motion carried unanimously.